

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 225D.2(5)“b” and 2016 Iowa Acts, House File 2460, the Department of Human Services hereby amends Chapter 22, “Autism Support Program,” Iowa Administrative Code.

These amendments are adopted in accordance with legislative changes to Iowa Code chapter 225D and change program eligibility requirements in accordance with 2016 Iowa Acts, House File 2460. These amendments also clarify existing program eligibility requirements to ensure uniform application of the Autism Support Program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 17, 2016, as **ARC 2680C**. The Department received one comment during the public comment period. The comment and the Department’s response are as follows:

**Comment:** The respondent expressed concern that the amendment to the definition of “autism service provider” restricts provider eligibility to board-certified behavior analysts, psychologists licensed under Iowa Code chapter 154B, and psychiatrists licensed under Iowa Code chapter 148 and no longer allows for the inclusion of health care professionals licensed under Iowa Code chapter 147. The respondent specifically suggested that the definition include board-certified developmental-behavioral pediatricians licensed under Iowa Code chapter 147 as eligible autism service providers.

**Department response:** The amendment to the definition of “autism service provider” was made to conform the administrative rule with Iowa Code section 225D.1(3). The Iowa Code section 225D.1(3) definition of “autism service provider” was amended by 2015 Iowa Acts, chapter 137, division X, section 69, to remove provider eligibility for health professionals licensed under Iowa Code chapter 147 because that eligibility category was determined to be overly broad. The Department does not have the authority to selectively expand the statutory definition. No change was made to the proposed administrative rule.

One change from the Notice has been made. The word “or” was changed to “and” in paragraph 22.6(1)“c” to indicate that, to be approved as a provider for this program, a provider must meet one of the requirements in 22.6(1)“a,” “b,” or “c” and that all providers must meet the requirements in 22.6(1)“d.”

These amendments were adopted by the Mental Health and Disability Services Commission on October 20, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 225D.2 and 2016 Iowa Acts, House File 2460.

These amendments shall become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule **441—22.1(225D)**, definitions of “Autism service provider” and “Household income,” as follows:

“*Autism service provider*” means a person providing applied behavioral analysis, who meets both of the following criteria:

1. ~~Is certified as a behavior analyst by the Behavior Analyst Certification Board or is a health professional licensed under Iowa Code chapter 147. The person:~~

- Is certified as a behavior analyst by the Behavior Analyst Certification Board, is a psychologist licensed under Iowa Code chapter 154B, or is a psychiatrist licensed under Iowa Code chapter 148; or
- Is a board-certified assistant behavior analyst who performs duties, identified by and based on the standards of the Behavior Analyst Certification Board, under the supervision of a board-certified behavior analyst.

2. Is approved as a member of the provider network by the department.

“Household income” means household income, reported on the tax return on which the eligible individual is claimed as a dependent, as determined using the modified adjusted gross income methodology pursuant to Section 2002 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148. If the eligible individual’s parents live together and file separate tax returns, the income reported on both parents’ tax returns must be combined.

ITEM 2. Adopt the following **new** definition of “Household size” in rule **441—22.1(225D)**:

“Household size” means the total number of personal and dependent exemptions claimed on the tax return on which the eligible individual is claimed as a dependent plus any child under the age of 19 living in the household who is claimed for tax purposes by a noncustodial parent through a release of claim to exemption by the custodial parent.

ITEM 3. Amend rule 441—22.2(225D) as follows:

**441—22.2(225D) Eligibility and application requirements.** To be determined eligible for funding for services through the autism support program, an individual must meet the following requirements:

**22.2(1)** An individual shall submit an application to the ~~administrator of the program~~ department using a standardized application form available through the administrator’s and the department’s Web sites, members of the provider network, the regional autism assistance program, and advocacy organizations.

**22.2(2)** An applicant for autism program services shall be less than the age of ~~nine~~ 14 at the time of application for the program. Proof of age must be provided at the time of application. An individual who reaches the age of ~~nine~~ 14 prior to receipt of the maximum benefits of the program may continue to receive services from the program in accordance with the individual’s treatment plan, up to a maximum of 24 months of applied behavioral analysis treatment.

**22.2(3)** No change.

**22.2(4)** An individual shall be determined ineligible for coverage of applied behavioral analysis services under the medical assistance program, Iowa Code section 514C.28, or private insurance coverage. Proof of insurance coverage and noneligibility for coverage for applied behavioral analysis shall be provided at the time of application and shall include a written denial of coverage or a benefits summary indicating that the applied behavioral analysis treatment is not a covered benefit for which the applicant is eligible under the Medicaid program, Iowa Code section 514C.28, or private insurance coverage.

**22.2(5)** An individual shall have a household income equal to or less than ~~400~~ 500 percent of the federal poverty level. Information needed to determine household income using modified adjusted gross income methodology shall be identified on the program application. Household size will be determined according to the standards in this chapter. The information shall be provided at the time of application.

**22.2(6)** The ~~administrator~~ department shall provide to the parent or guardian a written notice of decision determining initial eligibility or denial within 30 calendar days of receipt of the application.

**22.2(7)** The ~~administrator~~ department shall refer an applicant determined to be an eligible individual to care coordination services. The referral will occur within 5 business days of determination of eligibility for the program. Care coordination services will be provided by the University of Iowa regional autism assistance program (RAP) or an integrated health home. Eligible individuals who reside in counties where integrated health homes for children with a serious emotional disturbance are operational may choose to receive care coordination through the University of Iowa RAP program or an integrated health home that serves residents of the eligible individual’s county of residence. Care coordination is not required as a condition of receiving services through the autism support program.

**22.2(8)** ~~For individuals determined eligible for the program but unable to access services due to lack of available providers, the administrator shall maintain a list of such individuals and shall work to connect eligible individuals on the list to network providers. The department shall provide information to an applicant determined to be an eligible individual regarding all available administrators. The eligible individual may choose any available administrator.~~

~~22.2(9) The administrator shall stop processing applications at the point where available funds are fully obligated for eligible individuals and additional eligible individuals would cause expenditures in excess of the funds available to the program. The administrator shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the administrator shall contact individuals on the list in order of the earliest date and time of the receipt of the original application. The applicant shall be allowed 30 calendar days to submit an updated application and any required information needed to determine eligibility. If the applicant does not submit required information, the applicant will be denied eligibility and removed from the waiting list maintained for individuals denied access to the program due to lack of funding. The age of the applicant at the time of the most recent application will be used when determining eligibility for the program. The administrator shall maintain a list of individuals determined eligible for the program but unable to access services due to lack of available providers and shall work to connect eligible individuals on the list to network providers.~~

22.2(10) The department shall stop processing applications at the point where available funds are fully obligated for eligible individuals and additional eligible individuals would cause expenditures in excess of the funds available to the program. The department shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the department shall contact individuals on the list in order of the earliest date and time of the receipt of the original application. The applicant shall be allowed 30 calendar days to submit an updated application and any required information needed to determine eligibility. If the applicant does not submit required information, the applicant will be denied eligibility and removed from the waiting list maintained for individuals denied access to the program due to lack of funding. The age of the applicant at the time of the most recent application will be used when determining eligibility for the program.

ITEM 4. Amend rule 441—22.3(225D) as follows:

**441—22.3(225D) Cost-sharing requirements and graduated schedule of cost sharing.**

22.3(1) An individual with a household income equal to or greater than 200 percent of the federal poverty level, up to a maximum of 400 500 percent of the federal poverty level, shall be subject to cost-sharing requirements. Cost sharing shall be implemented incrementally up to a maximum of 40 15 percent of the costs of the services provided through the program for an individual with a household income equal to 400 500 percent of the federal poverty level. The following is a chart of the cost-sharing requirements:

<b>Family income as a % of FPL</b>	<b>% of cost-sharing of service costs</b>	<b>Family income as a % of FPL</b>	<b>% of cost-sharing of service costs</b>
200%	.476%	310%	5.712%
210%	.952%	320%	6.188%
220%	1.428%	330%	6.664%
230%	1.904%	340%	7.14%
240%	2.38%	350%	7.616%
250%	2.856%	360%	8.092%
260%	3.332%	370%	8.568%
270%	3.808%	380%	9.04%
280%	4.284%	390%	9.516%
290%	4.76%	400%	9.992%
300%	5.236%		

<u>Family income as a % of FPL</u>	<u>% of cost sharing of service costs</u>	<u>Family income as a % of FPL</u>	<u>% of cost sharing of service costs</u>
<u>200–209%</u>	<u>0.5%</u>	<u>350–359%</u>	<u>8.0%</u>
<u>210–219%</u>	<u>1.0%</u>	<u>360–369%</u>	<u>8.5%</u>
<u>220–229%</u>	<u>1.5%</u>	<u>370–379%</u>	<u>9.0%</u>
<u>230–239%</u>	<u>2.0%</u>	<u>380–389%</u>	<u>9.5%</u>
<u>240–249%</u>	<u>2.5%</u>	<u>390–399%</u>	<u>10.0%</u>
<u>250–259%</u>	<u>3.0%</u>	<u>400–409%</u>	<u>10.5%</u>
<u>260–269%</u>	<u>3.5%</u>	<u>410–419%</u>	<u>11.0%</u>
<u>270–279%</u>	<u>4.0%</u>	<u>420–429%</u>	<u>11.5%</u>
<u>280–289%</u>	<u>4.5%</u>	<u>430–439%</u>	<u>12.0%</u>
<u>290–299%</u>	<u>5.0%</u>	<u>440–449%</u>	<u>12.5%</u>
<u>300–309%</u>	<u>5.5%</u>	<u>450–459%</u>	<u>13.0%</u>
<u>310–319%</u>	<u>6.0%</u>	<u>460–469%</u>	<u>13.5%</u>
<u>320–329%</u>	<u>6.5%</u>	<u>470–479%</u>	<u>14.0%</u>
<u>330–339%</u>	<u>7.0%</u>	<u>480–489%</u>	<u>14.5%</u>
<u>340–349%</u>	<u>7.5%</u>	<u>490–500%</u>	<u>15.0%</u>

**22.3(2)** An individual may request an exemption from cost sharing due to financial hardship. To qualify for an exemption, an individual shall submit written documentation to the ~~administrator~~ department that the individual or the individual’s family does not have the financial means to fulfill cost-sharing requirements.

**22.3(3)** Criteria to determine financial hardship include, but are not limited to, a change in income, change in employment of the parent or guardian, additional medical expenditures, other family members’ health conditions, or other conditions which may affect the ability to fulfill cost-sharing requirements. The ~~administrator~~ department shall provide a written determination regarding eligibility for exemption from cost-sharing requirements. Eligibility for exemption from cost sharing expires at the end of the financial eligibility period.

ITEM 5. Amend rule 441—22.4(225D) as follows:

**441—22.4(225D) Review of financial eligibility, cost-sharing requirements, exemption from cost sharing, and disenrollment in the program.**

**22.4(1)** and **22.4(2)** No change.

**22.4(3)** The ~~administrator~~ department shall provide a written notice of decision determining ongoing eligibility or denial within 15 calendar days of receipt of the continued financial eligibility documentation.

**22.4(4)** If the signed application and verification of continuing eligibility are not received by the ~~administrator~~ department by the last working day of the renewal month, the individual’s eligibility for the program shall be terminated.

**22.4(5)** No change.

ITEM 6. Amend subrule 22.5(5) as follows:

**22.5(5)** The treatment plan may include services provided by staff with a minimum of a bachelor’s degree in a human services or education field, working under the supervision of an autism service provider who is board-certified as a behavior analyst. The treatment plan shall identify which services shall be provided directly by the ~~autism service provider~~ board-certified behavior analyst and which services shall be provided by staff under the supervision of ~~the autism service provider~~ a board-certified behavior analyst.

ITEM 7. Amend rule 441—22.6(225D) as follows:

**441—22.6(225D) Provider network.** The administrator shall establish and maintain a network of department-approved autism service providers so that applied behavioral analysis services are available to eligible individuals statewide to the maximum extent possible.

**22.6(1)** A provider shall be approved to participate in the autism support program provider network if the provider meets one of the following standards in paragraph 22.6(1) “a,” “b” or “c”:

a. No change.

b. ~~The autism service provider is a health professional licensed under Iowa Code chapter 147. A health professional licensed under Iowa Code chapter 147 who does not hold a current certification as a board-certified behavior analyst shall provide evidence of training in applied behavioral analysis and be licensed as a mental health professional under Iowa Code section 228.1(6) psychologist licensed under Iowa Code chapter 154B; or~~

c. The autism service provider is a psychiatrist licensed under Iowa Code chapter 148; and

~~e. d.~~ A provider shall be deemed eligible to participate in the autism support program provider network if the autism service provider meets the standards in paragraph 22.6(1) “a,” ~~or “b”~~ or “c” and the provider is approved to provide applied behavioral analysis services through Medicaid.

**22.6(2)** No change.

**22.6(3)** ~~The administrator~~ department is responsible for calculating the cost-sharing amount according to standards established in this chapter.

**22.6(4)** No change.

ITEM 8. Rescind rule 441—22.7(225D) and adopt the following **new** rule in lieu thereof:

**441—22.7(225D) Financial management of the program.**

**22.7(1)** The department shall:

a. Not take new applications for the program that would cause expenditures of the program to exceed the budgeted amount.

b. Limit expenditure of program funds to services for those individuals determined to be eligible individuals and for related administrative costs.

c. Allocate available funds for eligible individuals’ services in a manner that allows for funding for all eligible individuals’ services authorized by the administrator without exceeding the department’s funding limits.

**22.7(2)** The administrator shall:

a. Limit annual expenditures for each eligible individual to the amount identified in Iowa Code section 225D.2(2) “a.”

b. Limit length of service through the program to the amount identified in Iowa Code section 225D.2(2) “b.”

c. Limit payment for applied behavioral analysis services to an hourly or equivalent quarter-hour unit rate that is equal to the contracted rate currently paid by Medicaid for applied behavioral analysis services.

d. Limit payment for integrated health home services to an amount consistent with the monthly per-member per-month amount paid by Medicaid to approved providers of integrated health home services for children with a serious emotional disturbance.

e. Not provide financial compensation to the University of Iowa regional autism assistance program for care coordination services.

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